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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/138,920 08/24/98 AUTEN

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EXAMINER

WM01/0614

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DAVIS, T

ART UNIT

PAPER NUMBER

2681

DATE MAILED:

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/138,920

Applicant(s)
Auten et al.

Examiner
Temica M. Davis

Art Unit
2681



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on Jun 4, 2001

2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-28 is/are pending in the applica

4a) Of the above, claim(s) _____ is/are withdrawn from considera

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-28 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirem

Application Papers

9) ☒ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

20) ☐ Other:

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DETAILED ACTION

Reassignment Affecting Application Location

1. The art unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to art unit 2681.

Continued Prosecution Application

2. The request filed on June 4, 2001 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/138,920 is acceptable and a CPA has been established. An action on the CPA follows.

Specification

3. The disclosure is objected to because of the following informalities: On page 1, line 5, the word “**pages**” should read --**paggers**--, throughout the specification, the word “**cadium**” should read --**cadmium**--, and “**devices..**” should read --**devices**--.

Appropriate correction is required.

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Claim Objections

4. Claims 1 and 9 are objected to because of the following informalities: Claim 1, line 5, "the lens" should read --a lens--, on page 19, 14 "claim 1" should read --claim 8--, .

Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

6. Claims 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Soon, U.S.

Patent No. 5,901,206.

Regarding claim 21, Soon discloses a communication device comprising a housing col, 3, lines 15-18, figure 1), inherently telecommunication circuitry located in the wall of the housing as evidenced by the fact that the communications device is a portable/mobile phone figures 1-3), an integrated flashlight (col. 3, lines 15-23), and a power source for the flashlight in electrical communication with the flashlight (col. 3, lines 40-47; figure 3).

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Regarding claim 22, Soon discloses the communications device of claim 21 further comprising a switch in electrical communication with the power source of the source of illumination (col. 3, lines 45-47; figure 3).

Regarding claim 23, Soon discloses the communication device of claim 21 wherein the source of illumination is an incandescent light bulb (col. 3, lines 40-48; figure 3).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-3, 8-10, 13, 15, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soon, U.S. Patent No. 5,901,206.

In view of the objection to claim 1 in paragraph 2 of this office action, the examiner will interpret "the lens" as best understood.

Regarding claim 1, Soon discloses a communication device comprising a housing (col. 3, lines 15-18), telecommunications circuitry located axially along the housing and positioned to project a beam of light through the lens to inherently illuminate an area surrounding the device with sufficient candlepower to enable a user to view the area as evidenced by the fact that the

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source of illumination is a flashlight (col. 3, lines 19-30), and a power source for the source of illumination in electrical communication with the source of illumination (col. 3, lines 40-47; figure 3).

Soon, however, fails to specifically disclose wherein the source of illumination is located within the housing of the communications device. However, the examiner takes official notice that it would have been obvious to one of ordinary skill in the art to modify Soon by putting the source of illumination in the wall of the housing, since it has been held that forming in one piece an article which has been formed in two pieces and put together involves only routine skill in the art.

Regarding claim 2, Soon discloses the communications device of claim 1, and further discloses a switch in electrical communication with the power source of the source of illumination (Soon, col. 3, lines 45-47; figure 3).

Regarding claim 3, Soon discloses the communication device of claim 1, and further discloses wherein the source of illumination is an incandescent light bulb (Soon, col. 3, lines 40-48; figure 3).

Regarding claim 8, Soon discloses a power source unit comprising a housing (col. 3, lines 15-18), a lens that is flush with the housing (col. 3, lines 23-26), a source of illumination located axially along the housing and positioned to project a beam of light through the lens (col. 3, lines 19-30), and a power source for the source of illumination in electrical communication with the source of illumination (col. 3, lines 40-47; figure 3).

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Soon, however, fails to specifically disclose wherein the source of illumination is located within the housing of the communications device. However, the examiner takes official notice that it would have been obvious to one of ordinary skill in the art to modify Soon by putting the source of illumination in the wall of the housing, since it has been held that forming in one piece an article which has been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

In view of the objection to claim 9 in paragraph 2 of this office action, the examiner will read claim 9 as being dependent on claim 1.

Regarding claim 9, Soon discloses the communications device of claim 8, and further discloses a switch in electrical communication with the power source of the source of illumination (Soon, col. 3, lines 45-47; figure 3).

Regarding claim 10, Soon discloses the communication device of claim 8, and further discloses wherein the source of illumination is an incandescent light bulb (Soon, col. 3, lines 40-48; figure 3).

Regarding claim 13, Soon discloses a cordless telephone comprising the power source (figure 1).

Regarding claim 15, Soon discloses a cellular telephone comprising the power source of claim 8 (figure 1).

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Regarding claim 17, Soon discloses the power source unit of claim 8, and further discloses the power source unit being comprised of a power tool since the phone contains power elements (Soon, figure 3).

Regarding claim 18, Soon discloses a radio (portable/mobile phone) comprising the power source unit of claim 8 (figure 1).

Regarding claim 19, 20 and 28, Soon discloses the communications device of claim 1, 8 and 21 as described above.

Soon however, fails to specifically disclose wherein the flashlight is capable of generating from 0.1 to 30 lumens.

The examiner contends however, that since Soon teaches a communication device capable of being used as a flashlight which is inherently used for lighting the user's surrounding area, that the total amount of lumens used for the light is a design preference as long as the amount is sufficient to light a particular area and therefore, would have been obvious at the time of invention for the purpose of being able to see in poorly lit area.

9. Claims 4, 6, 11, 24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soon, U.S. Patent No. 5,901,206 and Korycan, U.S. Patent No. 5,950,139.

Regarding claims 4, 11, and 24, Soon discloses the communications device/power source unit as described in claims 1, 8, and 21.

Soon, however, fails to specifically disclose the source of illumination being an LED.

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However, LED's are very known in the art for being used as a source of illumination as evidenced by Korycan col. 2, lines 23-45; figure 1).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify Soon with the teachings of Korycan as it would have been a design preference based on the desired outcome of the system since Korycan further teaches that other sources of light can be used in the system as well in order to produce the same outcome (Korycan, col. 2, lines 40-45).

Regarding claim 6, the combination of Soon and Korycan discloses the communications device of claim 4, and further discloses the communications device being a cordless telephone (Soon; figure 1).

Regarding claim 26, the combination of Soon and Korycan discloses the device of claim 24 and further discloses wherein the device is a cellular phone (Soon; figure 1).

10. Claims 5, 7, 25, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soon, U.S. Patent No. 5,901,206 and well known prior art.

Regarding claims 5 and 25, Soon discloses the communications device of claims 3 and 23 as described above, and further discloses wherein the power source is a battery (col. 3, lines 15-18; figure 3).

Soon, however, fails to specifically disclose the battery comprising nickel, lithium, silver, mercury, magnesium, lead, zinc, manganese, combinations thereof, or oxides thereof.

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However, the examiner takes official notice that the type of batteries described above are very well known in the art.

Therefore, at the time of invention, it would have been obvious to a person of ordinary skill in the art to modify Soon with the teachings of well known prior art as it would have been a logical design preference in choosing a battery since various types of batteries are well known.

Regarding claim 7, the combination of Soon and well known prior art discloses the communications device of claim 5 as described above, and further discloses the communication device being a cellular phone (Soon; figure 1).

Regarding claim 27, the combination of Soon and well known prior art discloses the device of claim 25, and further discloses the device being a cellular phone (Soon, figure 1).

11. Claims 12, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soon, U.S. Patent No. 5,901,206, Korycan, U.S. Patent No. 5,950,139 and well known prior art.

Regarding claim 12, the combination of Soon and Korycan discloses the communications device of claim 11, wherein the power source is a battery (Soon, col. 3, lines 15-18; figure 3).

The combination, however, fails to specifically disclose the battery comprising nickel, lithium, silver, mercury, magnesium, lead, zinc, manganese, combinations thereof, or oxides thereof.

However, the examiner takes official notice that the type of batteries described above are very well known in the art.

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Therefore, at the time of invention, it would have been obvious to a person of ordinary skill in the art to modify the combination of Soon and Korycan with the teachings of well known prior art as it would have been a logical design preference in choosing a battery since various types of batteries are well known.

Regarding claim 14, the combination of Soon, Korycan, and well known prior art discloses the power source unit of claim 12 as described above and further discloses a cordless telephone comprising the power source unit (Soon, figure 1).

Regarding claim 16, the combination of Soon, Korycan, and well known prior art discloses the power source unit of claim 12 as described above and further discloses a cellular telephone comprising the power source unit (Soon, figure 1).

Conclusion

12. This is a CPA of applicant's earlier Application No. 09/138,920. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Temica M. Davis whose telephone number is (703) 306-5837. The examiner can normally be reached on Monday-Thursday from 6:30 am to 4:00 pm. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Dwayne Bost, can be reached on (703) 305-4778.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703)305-4700.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 308-6306 or (703) 308-6296 (for any communications intended for entry).

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Hand-delivered responses should be brought to Crystal Park II, 2121

Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).



Temica M. Davis

June 12, 2001



TRACY LEGREE
PRIMARY EXAMINER